REMARKS

This responds to the office action of 8 March 2007 in which all of pending claims 1-17 were rejected as anticipated by Brodersen (US publication 2002/0129352). This amendment revises claims 1, 3, 4, 5, 6, 8, 9, and 13 and deletes claims 2, 14, and 15. Claims 1, 3-13 and 16-17 are submitted for reconsideration. This rejection is respectfully traversed. Brodersen does not disclose all of the elements of the claimed invention as required by the rules, and regulations applicable to 35 U.S.C. 102 (b) rejections. The many inadequacies of Brodersen are discussed in subsequent sections of this amendment.

Brodersen and the present invention both disclose facilities that facilitate the release of revised versions of files, directories, and /or programs. This process is referred to as software release management. Even though the end result is similar, there are many differences between how Brodersen and the present invention achieve software release management.

Both the presently claimed invention and Brodersen enable an existing user: to create an upgraded version of the existing software, to compare the upgraded version with the existing version of the software, to enter any changes that may be desired into the upgraded version, and to generate a finalized revised version of the upgraded software.

Brodersen provides inadequate information regarding how his apparatus and process steps provide revised versions of his software. Brodersen's disclosure is a block diagram presentation of the before and after versions of his software. Brodersen does not provide information that would enable one skilled in the art to practice his invention without undo experimentation.

Brodersen's figure 1 discloses a system wherein a central computer system 1 controls the updating of software used by a plurality of remote nodes 21a, 21b, and 21c. Brodersen figure 1, and the associated text on pages 2 and 3, discloses only the highest level of signal flow between the elements of figure 1. Pages 2 and 3 of

Brodersen describe: how elements of his central control system 1 store the present version of software, how a user 33a of a node inputs new information into an "update element 31a", and how input data from user 33a is processed by node 21a to initiate the updating of software. Brodersen states that node 21a transmits the revised information to the central computer system control 1 which processes the received revised information, compares it with the existing information, corrects any detected incompatibility and returns an updated version of the software to node 21a.

Brodersen describes his updating process only at the high level shown on figure 1 and as well as the text on his pages 2 and 3. This function of Brodersen is described only at the high level of signal transfer. No details of the elements on figure 1 are described on pages 2 and 3 (or elsewhere in his text). His figure 1 provides no information regarding any details of the hardware elements that could be used to achieve this software release revision. One desiring to practice the Brodersen invention would be forced to investigate many alternatives of the hardware used. One would further be required to select the apparatus to be used in embodying merge 7, dock 5, log manager 9, update 11, update 31 as well as comparable elements for each of the nodes 21a, b, and c. Brodersen figure 1 illustrates only a conceptual data block and signal flow between elements. Brodersen discloses no details sufficient to teach details of his invention beyond the generic high-level illustration of his generic level concepts. His disclosure illustrates nothing of detail regarding the hardware elements that would be required by one skilled in the art when attempting to practice the Brodersen invention.

In contrast to Brodersen, the present application illustrates the specific elements and process steps used by applicants for their software release management. This is shown in applicant's figures 2-5. Figure 2 is a high-level block diagram of applicants' claimed invention. Figure 3 is more detailed and shows the elements used by the applicants to automate a portion of their release process. Figures 4, 5, and 6 are flow charts illustrating the details of the process steps embodying the applicants' invention. The applicants' specification disclosed their system elements and process steps as well

as how these elements and process steps function to automate their software release process. The applicants' disclosure provides sufficient information to enable one skilled in the art to practice applicants' invention without undo experimentation.

The 35 U.S.C. 102 (b) rejections of all pending claims are traversed. The examiner's rejection of independent claim 1 cites the following paragraphs of Brodersen: 0031, 0092, 0095, 0109, 0094-0101, 0111. Independent claim 8 was rejected with the examiner citing the following paragraphs of Brodersen: 0092, 0094, 0098, 0099, 0103, and 0116-0118. Independent claim 13 was similarly rejected over the following Brodersen paragraphs: 0092, 0093, 0094, 0096, 0098, 0099, and 0103.

The rejection of all pending claims including independent claims 1, 8, and 13 is traversed and cannot be understood from a reading of the Brodersen cited paragraphs. All of the above identified cited paragraphs failed to disclose anything of relevance to the present invention. In particular, many of these cited paragraphs pertain to figure 9 which is a block diagram relating to an updating process different from that claimed by the applicants. Further, figure 9 discloses no details whatsoever and, instead, discloses various data blocks created by Brodersen regarding his software revision process. The Brodersen software revision process of figure 9 is totally different from that of the applicants. As a result of the many inadequacies of Brodersen, it is submitted that independent claims 1, 8, and 13 are allowable as not being anticipated by Brodersen.

The examiner's remarks in support of his rejection cannot be understood. PTO rules and regulations regarding a 35 U.S.C. 102 (b) reference must disclose every element of a rejected claim. To meet this requirement, the examiner must indicate where each and every element of a rejected claim can be found in the reference. To meet requirement the examiner must identify how each element of the rejected claim has a corresponding element in the anticipatory reference.

The above requirement has not been met by the examiner, who instead of identifying specific corresponding elements in the reference merely cited a paragraph or strings of paragraphs of the reference. This does not meet the spirit and requirements

that the office action must possess. The office action must contain information sufficient to enable the applicants to understand each element in the reference that is relied on by the examiner to correspond to an element of the rejected claim. An egregious example of the deficiency of the rejection is the examiner's citation of paragraphs 0094-0101 directed to figure 9 of the Brodersen. This citation is meaningless since figure 9 of Brodersen does not disclose any apparatus or method steps. Instead, it illustrates the various data blocks generated by the software revision process of Brodersen. As priorly mentioned, Brodersen's software release process of figure 9 is totally different from that claimed by the applicants. Nothing in Brodersen figure 9 is relevant to applicants' claimed apparatus or method steps.

It is respectfully requested that if the examiner reapplies Brodersen in the next office action, that the examiner support his rejection by reading each element of the rejected claims on corresponding elements of Brodersen. This should be done element by element beginning with the first claim element and continuing through the claims element by element so that applicants will be advised of how the examiner believes each claim element has a corresponding counterpart in Brodersen. This is necessary to examiner's position that Brodersen possesses the requirements of a 35 U.S.C. 102 (b) reference. It is submitted that Brodersen does not meet this requirement, and that therefore, independent claims 1, 8, and 13 are allowable.

The examiner also rejected dependent claims 3, 4-7, 9-12, 16, and 17. Dependent claim 2 has been deleted and incorporated into claim 1. The examiner's methodology in the rejection of the pending dependent claims is similar to the methodology used in rejecting independent claim 1, 8 and 13. The rejection of the dependent claims is traversed. First of all, all pending dependent claims are submitted to be allowable in view of their dependency on an allowed one of independent claims 1, 8 and 13 which are submitted to be allowable. All pending dependent claims are further asserted to be allowable since Brodersen does not anticipate the elements resided in the dependent claims.

The rejection of dependent claim 2 is moot since it has been canceled and

inserted into claim 1. The rejection of claims 3 is traversed since Brodersen does not teach a database coupled to a scan element and an inventory file element. The rejection of claim 4 is traversed since the cited paragraphs of Brodersen are irrelevant to claim 4. The rejection of claims 5-7, 9-12, 16, and 17 are traversed since the cited paragraphs of Brodersen do not support the examiner's assertions.

Brodersen does not disclose the elements recited in applicants' claims as required by 35 U.S.C. 102 (b). Applicants' amended independent claim 1 has been revised to incorporate the subject matter of deleted claim 2. Claim one discloses details including software release inventory file element 310. This structure of claim 1 is not shown by Brodersen. The scan element 302 of revised claim 1 is not shown by Brodersen. Dependent claim 3 is directed to the interaction between database 308, scan element 302, and inventory file element 310. This is not shown in the reference. Claim 4 recites verify element 304 which is not shown in the reference. Dependent claim 5 is directed to the details of applicants' software release information manager 300. This is not shown in the reference. Dependent claim 6 is directed to build area 106 which is not shown in the reference. Dependent claim 7 characterizes the types of information that may embody the data of claim 1.

Independent claim 8 recites a method of operating the software release management system of claims 1, 3-7. Independent claim 8 is comparable to independent claim 1 and is therefore distinguishable from the reference for the same reasons above recited for claim 1. Amended claim 8 also recites the inventory file element 310 which is not shown in the reference. Dependent claim 9 recites a method of storing information in a database which compares prior information and newly released information. This is not shown in the reference. Dependent claim 10 recites the step of installing a copy of release files and directories in a destination storage area. Dependent claim 11 is directed to the step of copying build files into a release area to generate a new software release. This is not shown in the reference. Dependent claim 12 is directed to the step of copying the release files and directories in a destination area to install a new release of the software product. This is not shown in the reference.

Amended independent claim 13 is directed to a method of operating a software release management system including inventory of file element 310. Amended independent claim 13 was revised to incorporate the subject matter of newly deleted claims 14 and 15 which were directed to the step of updating information. The reference does not meet to recitation of amended claim 13. Dependent claim 16 is directed to the step of identifying the differences between the build storage area and the release storage area. This is not shown in the reference. Dependent claim 17 characterizes the various types of information that may comprise the differences of claim 16. None of these elements or process steps as recited in the pending claims is shown by Brodersen.

Requirements of 35 U.S.C. 102(b) Rejections.

A review of section 2131 of the MPEP is instructive. Section 2131.01 states that to anticipate a claim, a single primary reference must teach every element of the rejected claim. Section 2131 further states that a claim is anticipated by a reference only if each and every claim element can be found either expressly or is inherently in a single prior art reference. The well known "every element rule" and requires that the identical invention must be shown by the reference asserted to be anticipatory and in complete detail as is contained in the claim being examined. The claim elements must be arranged in the primary reference as set forth in the rejected claim. Brodersen does not meet this requirement since it does not disclose the structural elements and process steps recited in applicants' claims.

C.A.F.C. decisions addressing the issue of anticipation require that the prior art must describe or embody the claimed invention in a single reference. The claimed elements must be either inherently or expressly disclosed and must be arranged as in the claim. For anticipation, there can be no difference between the claimed invention and the reference disclosure. **The reference disclosure must be understandable and enabling to a person of ordinary skill in the field of the invention.**

The examiner's rejection of claims 1, 3-13,16 and 17 is traversed as being legally deficient since he does not present evidence showing that the primary reference, Brodersen, discloses each of the elements of the rejected claims.

The relevant Brodersen drawing figures are primarily high level block diagrams showing before and after versions of his software elements. Brodersen contains no description of the apparatus or methodology used by him to achieve his software changes. The Brodersen software changes could be achieved by the use of many different forms of apparatus and/or process steps. Thus, it cannot be determined from a reading of Brodersen what elements and process steps he uses in practicing his invention.

Brodersen is further legally deficient since one skilled in the art to which this invention pertains would not be able to determine what elements and process steps to use in practicing the Brodersen invention. A reader might be able to determine what Brodersen invention achieves, but would not be able to determine without undue experimentation, what elements and process steps must be used in the practice Brodersen's invention.

It should be clearly understood that Brodersen and the present invention are similar to the extent that they both relate to software release management. Both relate to the generation of new software releases. But, this apparent similarity of function has no bearing on the issue of patentability of the applicants the claimed invention. Although the results of a software release by Brodersen and the applicants may achieve the same result in so far as the release of software is concerned, it should be of understood that the applicant achieves his software releases by different apparatus and different method steps than that of Brodersen . The applicants are entitled to a patent on their new method and apparatus even though their invention is directed to the same field of endeavor as that of Brodersen. In other words, the applicants' invention should be patentable since it achieves the claimed software release function using apparatus and methods different from that used by Brodersen. In other words, a possible similarity of results between two systems does not preclude the patentability of the second system

(applicants') so long as the methods and apparatus of the second system are patentability different methods and apparatus of the first system (Brodersen).

It is respectfully requested that, if the examiner reapplies Brodersen in the next office action, he indicate where each element or process step of applicants' claims can be found in a corresponding element of Brodersen.

It is respectfully submitted that applicants' pending claims are not anticipated by Brodersen and are allowable over the known prior art.

The Examiner is respectfully requested to call if the prosecution of the application can be expedited by so doing.

Respectfully submitted,

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